

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

VU TO, Plaintiff vs BLAZING HOG, INC., Defendant	§ § § § § §	BLAZING HOG, INC.’S NOTICE OF REMOVAL CIVIL ACTION NO. _____ DISTRICT JUDGE: _____
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NOTICE OF REMOVAL

Defendant Blazing Hog, Inc., (“Blazing Hog”) hereby files this Notice of Removal to the United States District Court for the Southern Dist. of Texas, Houston Division under 28 U.S.C. §1446 (b). Removal is proper because Plaintiff Vu To (“To”) seeks money damages in excess of \$75,000 and because To and Blazing Hog are citizens of different states.

INTRODUCTION

1. To initiated this lawsuit against Blazing Hog on August 10, 2020, in the District Court of Harris County, Texas, where the lawsuit was assigned Cause No. 202047612. To alleges that Blazing Hog approached him in 2019 and offered him ten percent (10%) ownership interest in the company in exchange for his expertise and efforts in building a certain type of router and cloud platform. To contends that he provided the router specified and performed other tasks assigned to him. Blazing Hog contends that To failed to provide functioning equipment and failed to meet other requirements related to the proposed agreement to convey stock in Blazing Hog to him. When Blazing Hog failed to meet certain of his demands, To filed suit against Blazing Hog.

2. Blazing Hog was served with process in the suit on August 24, 2020. Blazing Hog files this Notice of Removal within the 30 day time period required by 28 U.S.C. §1446 (b).

3. Removal is proper because there is complete diversity between the parties. 28 U.S.C. §1336(a). *Darden v. Ford Consumer Finance Co.* 200 F2d 753,755 (11th Cir. 2000). Plaintiff is a citizen of Texas. Defendant is a citizen of South Dakota. Plaintiff's Original Petition explicitly states in paragraph 1 that "Plaintiff seeks monetary relief of more than \$100,000 but less than \$200,000." Accordingly, the amount in controversy exceeds \$75,000, excluding interest, costs, and attorney's fees. 28 U.S.C. §1336(a).

4. All pleadings, process, orders and other filings in the state court action are attached to this Notice is required by 28 U.S.C. §1446 (b). As required by Local Rule 81, Blazing Hog has attached only the following documents to this Notice of Removal:

- All executed process in the state court case;
- Pleadings asserting causes of action and all answers to such pleadings;
- The docket sheet;
- An index of matters being filed; and
- A list of all counsel of record, including addresses, telephone numbers and parties represented.

5. Venue is proper in this district under 28 U.S.C. §1441 (a) because the state court where the action has been pending is located in this district.

6. Blazing Hog will promptly file a copy of this notice of removal with the clerk of the state court where the action has been pending.

7. This is a contract dispute between citizens of different states with an amount in controversy in excess of \$75,000. Blazing Hog has timely filed this Notice of Removal within the 30 day time period specified by statute. For these reasons, Blazing Hog asks this Court to remove the action to federal court.

Respectfully submitted,

/s/ J. Richard Tubb

J. Richard Tubb

Attorney-in-Charge

Southern District Admission Pending

Previous Southern District Number 10058

State Bar No. 20260400

14841 Dallas Parkway, Suite 760

Dallas, Texas 75254

972-364-1162: Telephone

972-387-1593: Facsimile

Email: rick@crbpclaw.com

ATTORNEYS FOR DEFENDANT
BLAZING HOG, INC.

INDEX OF MATTERS FILED

1. Plaintiff's Original Petition filed August 10, 2020;
2. Returned Citation served on Non-Resident August 24, 2020;
3. Original Answer of Defendant Blazing Hog, Inc. filed September 14, 2020;
4. State Court Docket Sheet;
5. List of Counsel.

2020-47612 / Court: 281

CAUSE NO. _____

VU TO,	§	IN THE DISTRICT COURT OF
	§	
Plaintiff,	§	
	§	
V.	§	HARRIS COUNTY, TEXAS
	§	
BLAZING HOG INC.,	§	
	§	
Defendant.	§	_____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

COMES NOW, Plaintiff Vu To ("Plaintiff"), who files this, his Original Petition, against Blazing Hog Inc. ("Defendant"), and in support thereof would show the Court as follows:

DISCOVERY CONTROL PLAN

1. Plaintiff intends to conduct discovery under Level 2 of Texas Rule of Civil Procedure 190.3, in that Plaintiff seeks monetary relief of more than \$100,000.00 but less than \$200,000.00.

THE PARTIES

2. The Plaintiff, Vu To, is an individual residing in the State of Texas. Plaintiff has standing to file this lawsuit.

3. Defendant Blazing Hog Inc. is a South Dakota company headquartered in Texas and can be served with citation and Plaintiff's Original Petition at 25 1st Ave SW, Suite A, Watertown, SD 57201; or through its counsel.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this matter as the amount in controversy is within this Court's jurisdictional limits.

5. Venue is proper in Harris County, Texas because the events that form the basis of this action occurred in Harris County, Texas and Defendant maintains its principal office in this district.

FACTUAL BACKGROUND

6. Defendant is an internet service provider that, among other things, offers home internet to customers in rural areas. In 2019, Defendant approached Plaintiff and offered him ten percent (10%) of the company in exchange for his expertise and efforts in building an LTE router and a cloud platform.

7. Plaintiff met with Defendant's partners and, on April 14, 2019, agreed to perform the work in exchange for a ten percent stake in the company.

8. Plaintiff was given the title of Vice President of Engineering. In meetings with other employees in Dallas, Defendant's COO, Mr. Bruce Hackfield, would refer to Plaintiff as a partner when introducing him.

9. Plaintiff spent the next four months working on the projects he was tasked with. Plaintiff worked on additional matters, including building a VOIP phone system. In total, Plaintiff worked on several projects in different areas for Defendant, including device cloud management architecture; hardware OEM sourcing for the router and radio module; LTE router embedded software planning; LTE router development; device cloud management; technical support; and technical consultation.

10. Plaintiff estimates that he spent a total of 380 hours on these projects and tasks for Defendant. The highly diverse skill set and technical expertise that Plaintiff brought to the table in order to complete these projects would command in the range of \$180 - \$260 per hour in compensation if Plaintiff were performing freelance work in this field.

11. On July 11, 2019, Defendant terminated Plaintiff's employment with the company without warning and without any compensation for his work.

12. To this day, Plaintiff has not been compensated in any form for his work.

CAUSES OF ACTION

BREACH OF CONTRACT

13. The foregoing paragraphs of this petition are incorporated herein as if set forth verbatim.

14. Plaintiff and Defendant entered a valid and binding contract when Plaintiff agreed to perform engineering work in exchange for a ten percent stake in Defendant's company.

15. Defendant denies that conditions precedent to Plaintiff receiving his shares have been met and/or that Plaintiff's shares properly vested.

16. Plaintiff has suffered and continues to suffer economic damages as a result of this breach.

17. Due to the necessity of this suit, Plaintiff has also incurred attorney's fees and court costs. Plaintiff seeks recovery of reasonable attorney's fees and court costs for this litigation and, if necessary, appeal pursuant to TEX. CIV. PRAC. & REM. CODE § 37.009.

UNJUST ENRICHMENT

18. The foregoing paragraphs of this petition are incorporated herein as if set forth verbatim.

19. In the alternative to Defendant breaching a valid agreement, Plaintiff has performed services for Defendant for which he was not compensated. Even in the absence of an agreement on the value of these services, these services have objective and inherent

value. Defendant did not compensate Plaintiff for services performed for the benefit of Defendant. Therefore, Defendant has been unjustly enriched at the expense of Plaintiff.

20. Plaintiff has suffered and continues to suffer economic damages as a result of this breach.

21. Due to the necessity of this suit, Plaintiff has also incurred attorney's fees and court costs. Plaintiff seeks recovery of reasonable attorney's fees and court costs for this litigation and, if necessary, appeal pursuant to TEX. CIV. PRAC. & REM. CODE § 37.009.

QUANTUM MERUIT

22. The foregoing paragraphs of this petition are incorporated herein as if set forth verbatim.

23. Plaintiff provided valuable services to Defendant. Defendant accepted those services. Under the circumstances, Defendant was reasonably notified that Plaintiff expected payment for his services. Plaintiff did not receive payment for his services. Therefore, Plaintiff can make a case for quantum meruit, which is an equitable remedy requiring payment for benefits received based on an implied contract.

24. Due to the necessity of this suit, Plaintiff has also incurred attorney's fees and court costs. Plaintiff seeks recovery of reasonable attorney's fees and court costs for this litigation and, if necessary, appeal pursuant to TEX. CIV. PRAC. & REM. CODE § 37.009.

CONDITIONS PRECEDENT

25. All conditions precedent to recovery by Plaintiff have occurred.

JURY DEMAND

26. Plaintiff requests a jury trial.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff seeks monetary relief of more than \$100,000.00 and less than \$200,000.00, and all other relief to which Plaintiff is entitled. Plaintiff respectfully requests that the Court issue citation for Defendant to appear and answer, and that Plaintiff be awarded a judgment against Defendant for the following:

- a. Actual and equitable damages;
- b. Court Costs;
- c. Reasonable attorney's fees;
- d. Pre-judgment and post-judgment interest on all sums awarded as permitted by law;
- e. All other relief to which Plaintiff is justly entitled.

Respectfully submitted,

/s/ Ahad Khan

Ahad Khan
Texas Bar No. 24092624
712 Main Street, Suite 900
Houston, TX 77002
(713) 401-3558 – Telephone
(844) 381-6369 – Facsimile
ak@ahadkhanlaw.com – Email

ATTORNEY FOR PLAINTIFF



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.
Witness my official hand and seal of office this September 22, 2020

Certified Document Number: 91673632 Total Pages: 5

Marilyn Burgess, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com

9/8/2020 3:00 PM
Marilyn Burgess - District Clerk Harris County
Envelope No. 46045292
By: Bonnie Lugo
Filed: 9/8/2020 3:00 PM

CAUSE NO. 202047612

COPY OF PLEADING PROVIDED BY PLT

RECEIPT No: 873858
TRACKING #: 73778803

Plaintiff: TO, VU

In The 281st
Judicial District Court of
Harris County, Texas

vs.
Defendant: BLAZING HOG INC (IS A SOUTH DAKOTA
COMPANY)

Houston, Texas

CITATION - NON RESIDENT

THE STATE OF TEXAS
County of Harris

To: BLAZING HOG INC.
25 1ST AVE SW SUITE A
WATERTOWN SD 57201

Attached is a copy of: PLAINTIFF'S ORIGINAL PETITION

This instrument was filed on 8/10/2020, in the above cited cause number and court. The instrument attached describes the claim against you.

YOU HAVE BEEN SUED. You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration date of 20 days after you were served this citation and petition, a default judgment may be taken against you.

This citation was issued on August 20, 2020, under my hand and seal of said court.

Issued at the request of:
Khan, Ahad S
712 MAIN STREET SUITE 900
HOUSTON, TX 77002
713-401-3558



Marilyn Burgess

Marilyn Burgess, District Clerk
Harris County, Texas
201 Caroline, Houston Texas 77002
(PO Box 4651, Houston, Texas 77210)

Bar Number: 24092624

Generated By: RHONDA MOMON

Tracking Number: 73778803

CAUSE NUMBER: 202047612

PLAINTIFF: TO, VU

vs.

DEFENDANT: BLAZING HOG INC (IS A SOUTH DAKOTA COMPANY)

In the 281st

Judicial District Court of

Harris County, Texas

OFFICER - AUTHORIZED PERSON RETURN

Came to hand at 4:55 o'clock P. M. On the 20th day of August, 20 20.
 Executed at

(Address) 25 1st Ave SW, Suite A, Watertown, SD 57201
in Codington County at o'clock 10:34 A M. On the 24th day of
August, 20 20, by

Delivering to Val Schenecker, Bookkeeper defendant, in person, a true copy of this
 Citation together with the accompanying 1 copy (ies) of the Plaintiff's Original Petition Petition
 attached thereto and I endorsed on said copy of the Citation the date of delivery.

To certify which I affix my hand officially this 24th day of August,
 20 20

Fees \$ _____

Teresa Bailly

Affiant

By Teresa Bailly

Deputy

On this day, Teresa Bailly, known to me to be the person whose
 signature appears on the foregoing return, personally appeared. After being by me duly sworn, he/she stated that
 this citation was executed by him/her in the exact manner recited on the return.

SWORN TO AND SUBSCRIBED BEFORE ME. On this 24th day of August,
 20 20

Pat Biederstedt

Notary Public

My Commission Expires: 10/22/2023



AFFIDAVIT OF SERVICE

IN THE 281ST JUDICIAL DISTRICT COURT OF
HARRIS COUNTY, TEXAS

CAUSE NO. 202047612

TO, VU,
Plaintiff,

Vs.

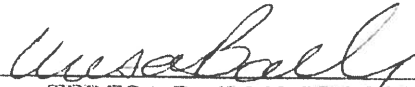
BLAZING HOG INC. (IS A SOUTH DAKOTA
COMPANY),
Defendants.

I, Teresa Bailly, being duly sworn upon, depose and states the following: I served BLAZING HOG INC. c/o REGISTERED AGENTS INC. personally by delivering a true copy of the CITATION, and PLAINTIFFS ORIGINAL PETITION in reference to the above matter at 25 1st Ave. SW Suite A, Watertown, SD 57201 on August 24, 2020 at 10:34 AM; in accordance with statutes in the manner marked below:

(X) CORPORATE SERVICE: Val Schenecker, Bookkeeper

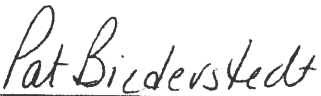
Description: White female, Age 40's, 5'2"-5'6", 170 lbs, brown hair

I certify that I have no interest in the above action, am of legal age and have proper authority in the jurisdiction in which this service was made.



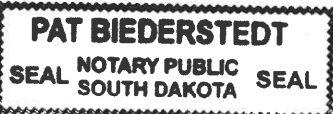
TERESA BAILLY, PROCESS SERVER

Subscribed and Sworn to before me on the 25th day of August, 2020 in Hamlin County, State of South Dakota



NOTARY PUBLIC

My Commission Expires 10/22/2023





I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.
Witness my official hand and seal of office this September 22, 2020

Certified Document Number: 92069139 Total Pages: 3

Marilyn Burgess, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com

9/14/2020 10:47 PM
Marilyn Burgess - District Clerk Harris County
Envelope No. 46227133
By: Bonnie Lugo
Filed: 9/14/2020 10:47 PM

CAUSE NO. 202047612

VU TO,	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
	§	
vs.	§	HARRIS COUNTY , TEXAS
	§	
BLAZING HOG, INC.	§	
Defendant	§	281ST DISTRICT COURT

ORIGINAL ANSWER OF DEFENDANT BLAZNG HOG, INC.

COMES NOW Blazing Hog, Inc., Defendant herein, and files this its Original Answer, and in support thereof would show the Court the following:

GENERAL DENIAL

Blazing Hog, Inc., generally denies each and every, all and singular, the allegations contained in Plaintiff's Original Petition and demands strict proof thereof by a preponderance of the credible evidence.

WHEREFORE, Defendant Blazing Hog, Inc. prays that Plaintiff take nothing by this action and that Defendant have such other and further relief as it may show herself justly entitled to receive.

Respectfully submitted,

BILLINGS, TUBB & WRIGHT, PLLC

s/ Charles R. Billings
Charles R. Billings
State Bar No. 20260400
14841 Dallas Parkway, Suite 760
Dallas, Texas 75254
972-364-1152: Telephone
972-387-1593: Facsimile
Email: rick@crbpclaw.com

ATTORNEYS FOR BLAZING HOG, INC.

CERTIFICATE OF SERVICE

The undersigned counsel certifies that a true and correct copy of the foregoing answer was served on all counsel of record on this 14th day of September, 2020 by ☐ hand delivery, ☐ certified mail, return receipt requested, ☐ regular mail, ☒ electronic means and/or ☐ via fax as follows:

s/ J. Richard Tubb
J. Richard Tubb



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office
this September 22, 2020

Certified Document Number: 92158230 Total Pages: 2

Marilyn Burgess, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com

HCDistrictclerk.com

TO, VU vs. BLAZING HOG INC (IS A SOUTH DAKOTA COMPANY)

9/23/2020

Cause: 202047612

CDI: 7

Court: 281

APPEALS

No Appeals found.

COST STATMENTS

No Cost Statments found.

TRANSFERS

No Transfers found.

POST TRIAL WRITS

No Post Trial Writs found.

ABSTRACTS

No Abstracts found.

SETTINGS

No Settings found.

NOTICES

No Notices found.

SUMMARY**CASE DETAILS**

File Date	8/10/2020
Case (Cause) Location	Civil Intake 1st Floor
Case (Cause) Status	Active - Civil
Case (Cause) Type	BUSINESS DISSOLUTION
Next/Last Setting Date	N/A
Jury Fee Paid Date	N/A

CURRENT PRESIDING JUDGE

Court	281 st
Address	201 CAROLINE (Floor: 14) HOUSTON, TX 77002 Phone:7133686430
JudgeName	CHRISTINE WEEMS
Court Type	Civil

ACTIVE PARTIES

Name	Type	Post Jdgm	Attorney
TO, VU	PLAINTIFF - CIVIL		KHAN, AHAD SAEED
BLAZING HOG INC (IS A SOUTH DAKOTA COMPANY)	DEFENDANT - CIVIL		TUBB, J. RICHARD

INACTIVE PARTIES

No inactive parties found.

JUDGMENT/EVENTS

Date	Description	Order Signed	Post Jdgm	Pgs	Volume /Page	Filing Attorney	Person Filing
9/14/2020	ANSWER ORIGINAL PETITION			0		TUBB, J. RICHARD	BLAZING HOG INC (IS A SOUTH DAKOTA COMPANY)
8/10/2020	ORIGINAL PETITION			0		KHAN, AHAD SAEED TO, VU	

SERVICES

Type	Status	Instrument	Person	Requested	Issued	Served	Returned	Received	Tracking	Deliver To
CITATION(NON-RESIDENT)	SERVICE RETURN/EXECUTED	ORIGINAL PETITION	BLAZING HOG INC (IS A SOUTH DAKOTA COMPANY)	8/10/2020	8/20/2020	8/24/2020			73778803	E-MAIL
25 1ST AVE SW SUITE A WATERTOWN SD 57201										

DOCUMENTS

Number	Document	Post Jdgm	Date	Pgs
92158230	Original Answer of Defendant Blazing Hog Inc		09/14/2020	2
92069139	Citation - Non Resident - Service Return		09/08/2020	3
91824761	eIssue: CITATION NON-RESIDENT		08/20/2020	2
91814085	Civil Process Request		08/19/2020	1
91673632	Plaintiffs Original Petition		08/10/2020	5

List of Counsel and Parties Represented

Plaintiff Vu To

Ahad Kahn

712 Main Street, Suite 900

Houston, Texas 77002

713-401-3558 – Telephone

844-381-6369 – Facsimile

ak@ahadkahnlaw.com

Defendant Blazing Hog, Inc.

J. Richard Tubb

Billings, Tubb & Wright, PLLC

14181 Dallas Parkway, Suite 760

Dallas, Texas 75254

972-363-1162 – Telephone

972-387-1593 – Facsimile

rick@crbpclaw.com